

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW MEXICO**

**TONY RAPATZ, ALICE GUERRA, and  
KATHERINE GUERRA,**

**Plaintiffs,**

**v.**

**No. 12-cv-0827 JCH/SMV**

**JOE MARTINEZ, CHRISTIAN LOPEZ,  
ROBERT VIGIL, DANNY PACHECO,  
CITY OF ESPAÑOLA EMPLOYEES AND  
SUPERVISORS JOHN/JANE DOES, and  
CITY OF ESPAÑOLA,**

**Defendants.<sup>1</sup>**

**ORDER GRANTING IN PART AND DENYING IN PART**  
**PLAINTIFFS' MOTIONS TO COMPEL [DOCS. 156, 157 AND 158]**

THIS MATTER is before the Court on Plaintiffs' First Motion to Compel Directed to Defendant City of Española [Doc. 156], Plaintiffs' First Motion to Compel directed to Defendant Vigil [Doc. 157], and Plaintiffs' First Motion to Compel directed to Defendant Pacheco [Doc. 158], all filed on February 9, 2015. Defendants filed a consolidated Response to all three motions on February 23, 2015. [Doc. 160]. Plaintiffs filed a consolidated Reply on February 24, 2015. [Doc. 161]. The Court heard oral argument on March 31, 2015. For the reasons stated on the record,<sup>2</sup> the three Motions [Docs. 156, 157, and 158] shall be GRANTED IN PART and DENIED IN PART as further discussed herein.<sup>3</sup>

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<sup>1</sup> Defendants Joe Martinez and Christian Lopez were dismissed as parties on September 30, 2014. [Doc. 135].

<sup>2</sup> See Clerk's Minutes [Doc. 168]; Recording of Oral Argument Hearing, March 31, 2015, Liberty – Animas.

<sup>3</sup> This Order does not address the Motion to Compel Directed to the Defendant City of Española [Doc. 156] with respect to Request for Production No. 20 concerning the confidential informant file. See Interim Ruling [Doc. 169].

**I. Motion Directed to Defendant City of Española [Doc. 156]**

**A. Interrogatories**

The Court finds that the number of interrogatories, including discrete subparts, exceeds the 25 allowed by the Rule 16 Scheduling Order [Doc. 146]. *See* [Doc. 146] (adopting the 25-interrogatory limit proposed in the parties' Joint Status Report and Provisional Discovery Plan [Doc. 142]). The Motion [Doc. 156] is DENIED with respect to all interrogatories past Interrogatory No. 10(a).

The Motion [Doc. 156] is GRANTED with respect to Interrogatory Nos. 1–4, 7–9, and 10 (in part, only through 10(a)). Defendants shall serve supplemental answers, as instructed by the Court at the March 31, 2015 hearing, no later than **April 24, 2015**. The Motion [Doc. 156] is DENIED with respect to the remaining interrogatories.

**B. Requests for Production**

The Motion [Doc. 156] is GRANTED with respect to Request for Production Nos. 1, 2, 5–7, 11–13, 15, 17, and 19. Defendants shall serve supplemental responses, as instructed by the Court at the March 31, 2015 hearing, no later than **April 24, 2015**. The Motion is DENIED with respect to Request for Production Nos. 3, 4, and 18. As discussed in separate orders, the Court will GRANT IN PART and DENY IN PART the Motion [Doc. 156] with respect to Request for Production No. 10<sup>4</sup> as well as reserve ruling on Request for Production No. 20 pending in camera review of the confidential informant file.

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<sup>4</sup> See Order Granting in Part and Denying in Part Plaintiffs' First Motion to Compel Directed to Defendant City of Española with respect to Request for Production No. 10 [Doc. 170].

## **II. Motion Directed to Defendant Vigil [Doc. 157]**

### **A. Interrogatories**

The Court finds that the number of interrogatories, including discrete subparts, exceeds the 25 allowed by the Rule 16 Scheduling Order [Doc. 146]. The Motion [Doc. 157] is DENIED with respect to all interrogatories past Interrogatory No. 8.

The Motion [Doc. 157] is GRANTED with respect to Interrogatory Nos. 1 (in part), 2, 4, 5, and 6. Defendant shall serve supplemental answers, as instructed by the Court at the March 31, 2015 hearing, no later than **April 24, 2015**. Plaintiffs withdrew the Motion [Doc. 157] with respect to Nos. 7 and 8. The Motion [Doc. 157] is therefore DENIED as moot with respect to those interrogatories.

### **B. Requests for Production**

The Motion [Doc. 157] is GRANTED with respect to Request for Production Nos. 1, 2, 17 (both first and second), 18 (first), and 19. Defendant shall serve supplemental responses, as instructed by the Court at the March 31, 2015 hearing, no later than **April 24, 2015**. The Motion [Doc. 157] is DENIED with respect to Request for Production Nos. 3, 4, and 18 (second).

## **III. Motion Directed to Defendant Pacheco [Doc. 158]**

### **A. Interrogatories**

The Court finds that the number of interrogatories, including discrete subparts, exceeds the 25 allowed by the Rule 16 Scheduling Order [Doc. 146]. The Motion [Doc. 158] is DENIED with respect to all interrogatories past Interrogatory No. 7(b).

The Motion [Doc. 158] is GRANTED with respect to Interrogatory Nos. 1 (in part), 2, 3, 5, 6 and 7 (in part, only through 7(b)). Defendant shall serve supplemental answers, as instructed by the Court at the March 31, 2015 hearing, no later than **April 24, 2015**.

C. Requests for Production

The Motion [Doc. 158] is GRANTED with respect Nos. 1, 2, 7, 14 (in part), 15 (in part), and 16. Defendant shall serve supplemental responses, as instructed by the Court at the March 31, 2015 hearing, no later than **April 24, 2015**. The Motion [Doc. 158] is DENIED with respect to Nos. 3 and 4.

The Court reserves ruling on Plaintiffs' request for attorney's fees.

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** that Plaintiffs' First Motion to Compel Directed to Defendant City of Española [Doc. 156], Plaintiffs' First Motion to Compel directed to Defendant Vigil [Doc. 157], and Plaintiffs' First Motion to Compel directed to Defendant Pacheco [Doc. 158] are **GRANTED IN PART** and **DENIED IN PART** as discussed above.

**IT IS SO ORDERED.**

  
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**STEPHAN M. VIDMAR**  
**United States Magistrate Judge**